

This record is a partial extract of the original cable. The full text of the original cable is not available.

C O N F I D E N T I A L SECTION 01 OF 02 BRASILIA 000325

SIPDIS

NOFORN

E.O. 12958: DECL: 02/04/2015

TAGS: [MARR](#) [MASS](#) [PREL](#) [BR](#) [ASPA](#)

SUBJECT: MISSION COMMENTS: MINISTRY OF DEFENSE DRAFT  
U.S.-BRAZIL DEFENSE COOPERATION AGREEMENT

REF: BRASILIA 311

Classified By: DEPUTY CHIEF OF MISSION PHILIP CHICOLA, REASONS

1.4 (B &  
D)

1. (C) After initial review of the Ministry of Defense (MOD) draft accord (reftel), Mission believes the Brazilian document is an excellent launching point for negotiation of a Defense Cooperation Agreement (DCA). While the MOD version is bare-bones, it also provides a strong negotiating foundation on which both countries can build a more elaborate bilateral cooperative structure. Given the constant challenges to the bilateral mil-mil relationship since Brazil's 1980 abrogation of the 1952 Mutual Defense Assistance Treaty, completion of a DCA should be among our most important political-military objectives. We understand the MOD wants to move quickly on this.

2. (C) The key to the MOD draft, we feel, is Article 10 "Revision". The GOB is well aware of the USG position on a variety of pol-mil issues including SOFA, Article 98, etc. However, it is also cognizant of what will and will not fly with Brazil's congress which must approve any accord. By leaving the amendment or revision of the accord within diplomatic channels, the MOD is allowing that contentious issues in the future can possibly be resolved without recourse to Brazil's legislative process. The amendment mechanism being proposed will assure a smoother ride when such issues inevitably arise. Mission provides other issues which may be a component of our negotiation strategy.

3. (C) Following are Mission comments for consideration by USG and are specific to the Brazilian text:

Article 1 "Objective"

We suggest adding a clause: "Authorizing access to and use of such facilities and areas in the territory of the other Party as may be mutually agreed;"

\*\*\*

Article 2 "Scope of Cooperation"

After we noted the absence of the MLO in the draft, the MOD has informally agreed to add clause J to include the Military Liaison Office. We suggest "J. Maintenance in the territory of the other Party liaison offices and commissions, to include the Military Liaison Office of the United States and the xxxxxxxxxx of Brazil, with appropriate privileges and immunities extended to the office staffs and commissions on a reciprocal basis."

\*\*\*

New Article "Availability of Equipment, Assistance, Services, and Property"

"1. Each Party will make available or continue to make available to the other such equipment, materials, services or other military assistance, as the Party furnishing such assistance may authorize and in accordance with such terms and conditions as may be agreed;

2. Title to property of each Party imported on behalf of the armed forces into or acquired in the territory of the other Party in connection with the activities in this Agreement, shall remain with the originating Party which may remove such property from the territory of the other Party at any time, free of export duties, taxes, and other charges;

3. Such property may also be disposed of in the territory of the other Party provided that disposition of such property to persons not subject to exemption from applicable taxes or duties shall be subject to payment of applicable taxes and duties by such persons or entities."

\*\*\*

Article 3 "Financial Responsibilities"

Add Clause D. "Reasonable costs associated with the provision

of logistical support are rates or charges no less favorable than those available to the armed forces of the other Party, excluding taxes, fees, and similar charges."

\*\*\*

#### Article 5 "Civil law Responsibilities"

Add Clause "Personnel of each party shall respect the laws of the other Party and abstain from any activity inconsistent with the letter or spirit of this Agreement."

\*\*\*

#### New Article "Custody of Personnel"

"A. Notwithstanding the provisions of this or other Agreements to which both the United States and Brazil are Party, if local authorities detain any personnel of the other Party, the authorities of that Party shall notify the Embassy of the other Party and as promptly as feasible return the personnel to the custody of the other Party.

B. Parties confirm that the personnel of the other may not be surrendered to, or otherwise transferred to, the custody of another entity, state, or international tribunal without the express consent of the other Party."

\*\*\*

#### New Article "Status of Military and Civil Personnel"

"A. During exercises in the territory of the other Party, personnel assigned to the exercise shall be permitted to enter and exit with appropriate national identification and with collective movement or individual travel orders;

B. Personnel from each Party shall be authorized to wear uniforms while in performance of official duties;

C. Military and civilian personnel of each Party associated with commissions and liaison offices in the territory of the other Party, shall be accorded a status equivalent to that accorded under the Vienna Convention on Diplomatic Relations of April 18, 1961."

4. (C) Mission considered but did not believe necessary at this time language allowing freedom of movement and the bearing of arms. The highlighting of weapons, even under official sanction, could be a lightning rod for political debate within Brazil's congress and could be accomplished through the revision mechanism. Mission also weighed as unnecessary the inclusion of an article on each party's acceptance as valid the professional licenses of the other party.

5. (C) Mission is uncertain whether the MOD draft has received the full blessing of the Ministry of External Relations (MRE), however, we understand that Brazilian Ambassador Abdenur may have already shared the paper with Washington interlocutors. While the MRE would be involved in negotiations on a DCA, experience here suggests they would defer on most substantive issues to MOD, concentrating at MRE on diplomatic format and potential legal issues. With Vice President/Minister of Defense Alencar's evident support for prompt conclusion of a DCA, the impetus is there to get this agreement through the GOB bureaucracy. Thus, we believe substantial momentum on moving a DCA forward can be achieved during the next few weeks.

Danilovich